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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Hiroyasu KUMAMOTO, et al.

Appln. No.: 10/006,137 ✓

Confirmation No.: 1724

Filed: December 10, 2001

Docket No: Q67421

Allowed: March 24, 2004

Group Art Unit: 1761

Examiner: Leslie A. Wong

For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE
PREPARATION

REQUEST FOR RECONSIDERATION OF INFORMATION DISCLOSURE
STATEMENTS SUBMITTED ON MARCH 24, 2004 and MAY 19, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request re-consideration of the Information Disclosure Statements filed March 24, 2003, and May 19, 2004. Applicants submit the following in support of the request.

First of all, this submission is a result of the Examiner's failure to initial all the references listed in the PTO/SB/08 Forms submitted with the Information Disclosure Statements, and as such, does not constitute a delay by Applicants. Further evidence that this submission does not constitute a delay by Applicants is that this submission does not fall within any of the categories outlined in 37 C.F.R. § 1.704 deemed to constitute Applicants' failure to engage in reasonable efforts to conclude prosecution. Accordingly, no reduction of the period of adjustment of patent term is warranted.

On March 24, 2004, Applicants filed an Information Disclosure Statement, a Form PTO/SB/08, together with the five listed references, and a corresponding European Search Report. On May 19, 2004, Applicants filed another Information Disclosure Statement, a Form PTO/SB/08, together with eleven listed references, and a corresponding European Search Report.

The Examiner has acknowledged receipt of the Information Disclosure Statements. However, the Examiner has not initialed all the references listed in the PTO/SB/08 Forms submitted on March 24, 2004, and May 19, 2004. Applicants submit that the references, U.S. 4,866,210, JP 2002-220361, GB 762421, and CH 272568 were unintentionally submitted in the PTO/SB/08 Form submitted on May 19, 2004. These references were cited in a Communication from a foreign patent office in relation to a unrelated application. Therefore, Applicants submit that the Examiner has correctly drawn a line thorough JP 2002-220361 and CH 272568 because these references were not in compliance with the rules regarding Information Disclosure Statements. However, the other references listed in the PTO/SB/08 Forms submitted on March 24, 2004, and May 19, 2004, are in compliance with 37 C.F.R. § 1.97 and § 1.98. Once the minimum requirements of 37 C.F.R. § 1.97 and 37 C.F.R. § 1.98 are met, the Examiner has an obligation to consider the information. See MPEP 609. Therefore, the Examiner is requested to complete the file record by initialing and returning the references listed in the PTO/SB/08 Forms (all the references except U.S. 4,866,210, JP 2002-220361, GB 762421, and CH 272568), thereby indicating that the references have been considered.

Request for Reconsideration of Information Disclosure Statements
Submitted on March 24, 2004 and May 19, 2004
U.S. Appln. No.: 10/006,137

Q67421

For the convenience of the Examiner, a copy of all of the IDS filing papers, including the references and Form PTO/SB/08, listing the references, and a copy of the USPTO date stamped post card filing receipt are enclosed.

If any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the local exchange number listed below.

It is believed that no fees are required for the instant Request. However, if a fee is required, the USPTO is directed and authorized to charge such required fee, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER



Jennifer R. Leach
Registration No. 54,257

Date: July 12, 2004

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FILING RECEIPT
PLEASE DATE STAMP AND RETURN TO US - BOX 235X

In re application of
Hiroyasu KUMAMOTO, et al.

Appln. No.: 10/006,137

Confirmation No.: 1724

Filed: December 10, 2001

For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE PREPARATION



Group Art Unit: 1761

Examiner: Leslie A. Wong

PAPER(S) FILED ENTITLED:

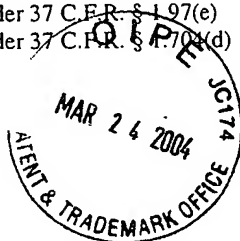
1. Information Disclosure Statement (with a copy of corresponding European Search Report, Communication from a foreign patent office, references and PTO/SB/08 A & B (modified))
2. Statement Under 37 C.F.R. § 1.97(e)
3. Statement Under 37 C.F.R. § 1.704(d)

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
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WASHINGTON OFFICE

23373

CUSTOMER NUMBER



DOCKET NO.: Q67421
ATTORNEY/SEC: JTC/sds
Date Filed: March 24, 2004

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

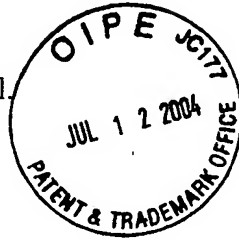
In re application of

Hiroyasu KUMAMOTO, et al.

Appln. No.: 10/006,137

Confirmation No.: 1724

Filed: December 10, 2001



Docket No: Q67421

Group Art Unit: 1761

Examiner: Leslie A. Wong

For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE PREPARATION

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §§ 1.97 and 1.98

FILED

MAR 24 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure under 37 C.F.R. § 1.56, Applicant hereby notifies the U.S. Patent and Trademark Office of the documents which are listed on the attached PTO/SB/08 A & B (modified) form and/or listed herein and which the Examiner may deem material to patentability of the claims of the above-identified application.

One copy of each of the listed documents is submitted herewith.

1. World Patent No. 98/47483, published October 29, 1998.
2. United Kingdom Patent Application No. 824 680, published December 2, 1959.
3. Switzerland Patent No. 84 705, published April 1, 1920.
4. European Patent Application Publication No. 1 121 927, published August 8, 2001.
5. U.S. Patent No. 5,545,424 issued August 13, 1996.

Hiroyasu KUMAMOTO et al.

10/006,137

INFORMATION DISCLOSURE STATEMENT

The present Information Disclosure Statement is being filed after the later of three months from the application's filing date and the mailing date of the first Office Action on the merits, but before a Final Office Action, Notice of Allowance, or an action that otherwise closes prosecution in the application (whichever is earlier), and therefore Applicant is filing concurrently herewith a Statement Under 37 C.F.R. § 1.97(e). No fee under 37 C.F.R. § 1.17(p) is required.

The present Information Disclosure Statement is being filed thirty days or fewer from the communication from a foreign patent office and a Statement Under 37 C.F.R. § 1.704(d) is attached.

In compliance with the concise explanation requirement under 37 C.F.R. § 1.98(a)(3) for foreign language documents, Applicant encloses herewith a copy of a corresponding European Search Report dated February 26, 2004, citing such documents and indicating the degree of relevance found by the foreign patent office.

The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedate or otherwise remove any listed document as a competent reference against the claims of the present application.


Hiroyasu KUMAMOTO et al.

10/006,137

INFORMATION DISCLOSURE STATEMENT

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,


John T. Callahan
Registration No. 32,607

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 24, 2004

Substitute for Form 1449 A & B/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				<i>Complete if Known</i>	
				Application Number	10/006,137
				Confirmation Number	1724
				Filing Date	December 10, 2001
				First Named Inventor	Hiroyasu KUMAMOTO
				Art Unit	1761
				Examiner Name	Leslie A. Wong
Sheet	1	of	1	Attorney Docket Number	Q67421

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
		Number	Kind Code ² (if known)		
		US 5,545,424	A	08/13/1996	Nakatsu et al.
		US			
		US			
		US			
		US			
		US			
		US			
		US			
		US			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document			Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Translation ⁶
		Country Code ³	Number ⁴	Kind Code ⁵ (if known)			
		WO	98/47483	A1	10/29/1998	The Proctor & Gamble Company	
		GB	824 680	A	12/02/1959	Merck & Co., Inc.	
		CH	84 705	A	04/01/1920	Stolz Philipp	
		EP	1 121 927	A2	08/08/2001	Takasago International Corporation	

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city, and/or country where published.	Translation ⁶

Examiner Signature

Date Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²See Kind Codes of USPTO Patent Documents at www.uspto.gov, MPEP 901.04 or follow the hyperlink from the title of the document to the intranet. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to indicate here if English language Translation is attached.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Hiroyasu KUMAMOTO, et al.

Appln. No.: 10/006,137

Confirmation No.: 1724

Filed: December 10, 2001

Docket No: Q67421

Group Art Unit: 1761

Examiner: Leslie A. Wong



For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE PREPARATION

STATEMENT UNDER 37 C.F.R. § 1.97(e)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Sir:

The undersigned hereby states, upon information and belief:

That each item of information contained in the Information Disclosure Statement filed concurrently herewith was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of said Information Disclosure Statement.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860


John T. Callahan
Registration No. 32,607

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 24, 2004

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Hiroyasu KUMAMOTO, et al

Appln. No.: 10/006,137

Confirmation No.: 1724

Filed: December 10, 2001



Docket No: Q67421

Group Art Unit: 1761

Examiner: Leslie A. Wong

For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE PREPARATION

STATEMENT UNDER 37 C.F.R. § 1.704(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:


The undersigned hereby states, upon information and belief:

That each item of information contained in the Information Disclosure Statement filed concurrently herewith was cited in a communication from a foreign patent office in a counterpart foreign application, and that the communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of said Information Disclosure Statement.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER


John F. Callahan
Registration No. 32,607

Date: March 24, 2004

23

FILING RECEIPT
PLEASE DATE STAMP AND RETURN TO US - BOX 235X

In re application of

Hiroyasu KUMAMOTO, et al.

Appln. No.: 10/006,137

Group Art Unit: 1761

Confirmation No.: 1724

Examiner: Leslie A. Wong

Filed: December 10, 2001

For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE PREPARATION
PAPER(S) FILED ENTITLED:

1. Amendment Under 37 C.F.R. §1.114(c)
2. Terminal Disclaimer
3. Submission of Terminal Disclaimer (in duplicate with Check No. 246546 in the amount of \$110.00)
4. Request for Continued Examination Transmittal (in duplicate with Check No. 247359 in the amount of \$770.00)
5. Information Disclosure Statement

SUGHRUE MION, PLLC
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WASHINGTON OFFICE

23373

CUSTOMER NUMBER



DOCKET NO.: Q67421
ATTORNEY/SEC: JTC/JRL
Date Filed: May 19, 2004

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q67421

Hiroyasu KUMAMOTO, et al.

Appln. No.: 10/006,137

Group Art Unit: 1761

Confirmation No.: 1724

Examiner: Leslie A. Wong

Filed: December 10, 2001



For: WARMING COMPOSITION FOR FOOD AND DRINK OR FOR ORAL CARE PREPARATION

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §§ 1.97 and 1.98

FILED

MAY 19 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure under 37 C.F.R. § 1.56, Applicant hereby notifies the U.S. Patent and Trademark Office of the documents which are listed on the attached PTO/SB/08 A & B (modified) form and/or listed herein and which the Examiner may deem-material to patentability of the claims of the above-identified application.

One copy of each of the listed documents is submitted herewith.

1. U.S. Patent No. 5,753,609, issued May 19, 1998, to Nakatsu et al.
2. U.S. Patent No. 6,306,429, issued October 23, 2001, to Bealin-Kelly.
3. U.S. Patent No. 5,628,986, issued May 13, 1997, to Sanker et al.
4. U.S. Patent No. 4,866,210, issued September 12, 1989, to Hoelderich et al.
5. WO 98/47483, published October 29, 1998, to The Proctor and Gamble Company.
6. WO 97/02273, published January 23, 1997, to The Proctor and Gamble Company.
7. EP 0988852 A2, published March 29, 2000, to Takasago International Corporation.

INFORMATION DISCLOSURE STATEMENT
U.S. Appln. No.: 10/006,137

8. JP 2000-026260, published January 25, 2000, to Earth Seiyaku KK.
9. JP 2002-220361, published August 9, 2002, to Japan Energy Corp.
10. GB 762 421, published November 28, 1956, to Rheinpreussen AG.
11. CH 272 568, published December 31, 1950, to Firmehich & Co.

The present Information Disclosure Statement is being filed: (1) No later than three months from the application's filing date; (2) Before the mailing date of the first Office Action on the merits (whichever is later); or (3) Before the mailing date of the first Office Action after filing a request for continued examination (RCE) under §1.114, and therefore, no Statement under 37 C.F.R. § 1.97(e) or fee under 37 C.F.R. § 1.17(p) is required.

In compliance with the concise explanation requirement under 37 C.F.R. § 1.98(a)(3) for foreign language documents, Applicant encloses herewith a copy of a Communication from a foreign patent office in a counterpart application citing such documents, together with an English-language version (if not already included) of at least that portion of the Communication indicating the degree of relevance found by the foreign patent office.

The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedate or otherwise remove any listed document as a competent reference against the claims of the present application.

The USPTO is directed and authorized to charge all required fees, except for the Issue

INFORMATION DISCLOSURE STATEMENT
U.S. Appln. No.: 10/006,137

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

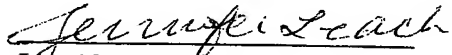
Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER


Jennifer R. Leach
Registration No. 54,257

Date: May 19, 2004

Substitute for Form 1449 A & B/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet

1

of

1

Complete if Known

Application Number	10/006,137
Confirmation Number	1724
Filing Date	December 10, 2001
First Named Inventor	Hiroyasu KUMAMOTO
Art Unit	1761
Examiner Name	Leslie A. Wong
Attorney Docket Number	Q67421

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
		Number	Kind Code ² (if known)		
		US 5,753,609		05-19-1998	Nakatsu et al.
		US 6,306,429		10-23-2001	Bealin-Kelly
		US 5,628,986		05-13-1997	Sanker et al.
		US 4,866,210		9-12-1989	Helderich et al.
		US			
		US			
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		US			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document			Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Translation ⁶
		Country Code ³	Number ⁴	Kind Code ⁵ (if known)			
		WO	98/47483		11-29-1998	The Proctor and Gamble Company	
		WO	97/02273		01-23-1997	The Proctor and Gamble Company	
		EP	0988852	A2	03-29-2000	Takasago International Corporation	
		JP	2000-026260		01-25-2000	Earth Seiyaku KK	
		JP	2002-220361	A	08-09-2002	Japan Energy Corp.	
		GB	762421	A	11-28-1956	Rheinpreussen AG	
		CH	272568	A	12-21-1950	Firmenich & Co.	

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city, and/or country where published.	Translation ⁶

Examiner Signature

Date Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²See Kind Codes of USPTO Patent Documents at www.uspto.gov, MPEP 901.04 or in the comment box of this document. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to indicate here if English language Translation is attached.